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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
LONG ISLAND OFFICE

UNITED STATES OF AMERICA, . Criminal No. 13-cr-00607-JFB-AYS-1  
.  
Vs. . 100 Federal Plaza  
. Central Islip, NY 11722  
PHILLIP A. KENNER, .  
TOMMY C. CONSTANTINE . DATE February 26, 2021  
. . . . .

TRANSCRIPT OF TELEPHONIC HEARING  
BEFORE HONORABLE JOSEPH F. BIANCO  
UNITED STATES VISITING JUDGE

APPEARANCES:

For the Government: UNITED STATES ATTORNEYS OFFICE  
EASTERN DISTRICT OF NEW YORK  
BY: MADELINE O'CONNOR, ESQ.  
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For Danske Bank: VENABLE LLP  
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For Diamante and Jowdy: FREEH SPORKIN & SULLIVAN  
BY: THOMAS SOUTHER, ESQ.  
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ADDITIONAL APPEARANCES:

For Owen Nolan:

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For Marc Wolinsky:

WACHTELL LIPTON ROSEN & KATZ  
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51 West 52nd Street  
New York, NY 10019

For CSL Properties:

STEVE MAIN, ESQ.

1 THE CLERK: Calling case number 13-criminal 607,  
2 United States of America versus Phillip A. Kenner and Tommy  
3 Constantine. Counsels, please state your appearances for the  
4 record.

5 MS. O'CONNOR: Assistant US Attorney, Madeline  
6 O'Connor, for the United States. Also appearing for the United  
7 States is Assistant US Attorney Diane Leonardo. Good morning,  
8 Your Honor.

9 THE COURT: Good morning.

10 MR. KOSTOLAMPROS: Good morning, Your Honor, this is  
11 George Kostolampros, I'm here with my colleague Xochitl  
12 Strohbehn on behalf of Danske.

13 THE COURT: Good morning.

14 MS. RAMACHANDRAN: Good morning, Your Honor, this is  
15 Seetha Ramachandran of behalf of Owen Nolan.

16 THE COURT: Good morning.

17 MR. MAIN: Good morning, Your Honor, Steve Main on  
18 behalf of CSL Properties.

19 THE COURT: Good morning.

20 MR. WOLINSKY: Good morning, Your Honor, this is Marc  
21 Wolinsky for the homeowner group.

22 THE COURT: Good morning.

23 MR. SOUTHER: Good morning, Your Honor, this is Tom  
24 Souther, for Kenneth Jowdy.

25 THE COURT: Good morning. All right, I think we have

1 everybody. So as you know I scheduled this just to get a status  
2 regarding the ongoing discussions to try to resolve the case.  
3 So I'll let the Government go first. Ms. O'Connor, you want to  
4 start.

5 MS. O'CONNOR: Yes, Your Honor. The parties all agree  
6 that we are still working towards settlement, and the parties  
7 being counsel for CSL, counsel for Nolan and counsel for  
8 Danske. So we're working towards a settlement and we would  
9 request two more weeks to continue our negotiations. And if at  
10 that time we cannot come to an agreement, Danske has stated  
11 that it would come back to the Court with a proposed  
12 alternative. And the Government would be able to respond to  
13 that alternative, if that's acceptable to the Court.

14 THE COURT: That sounds reasonable to me, as long as  
15 everybody else is agreeable to that as well. Mr. Kostolampros,  
16 is that your joint proposal?

17 MR. KOSTOLAMPROS: That is our joint proposal, Your  
18 Honor. We are moving hopefully towards a settlement. We had  
19 other discussions last night. So we're hopeful that we can  
20 resolve the issues related to Danske's claim. And also agree  
21 to an interlocutory sale that we can present to the Court. So,  
22 we're hoping that we can get that done within two weeks. And  
23 if not, we would then propose an alternative, unless you  
24 (indiscernible - audio skip) reason to still continue  
25 discussions.

1 THE COURT: All right. Ms. Ramachandran, that's  
2 acceptable to you as well?

3 MS. RAMACHANDRAN: Yes, Your Honor, it is.

4 THE COURT: Mr. Main?

5 MR. MAIN: Yes, Your Honor.

6 THE COURT: All right, and Mr. Wolinsky, anything you  
7 want to add about this?

8 MR. WOLINSKY: Your Honor, we are not parties to the  
9 settlement discussions. I did send a letter to all the  
10 participants in the settlement discussions reminding them that  
11 the homeowners have adopted a resolution protecting the Master  
12 Plan and that we expect any settlement to respect the Master  
13 Plan. And no one's responded actually to that letter. So I  
14 guess our issue is in abeyance. But no one has addressed, has  
15 involved us in the discussions.

16 THE COURT: All right. Then Mr. Souther, is there  
17 anything you want to add?

18 MR. SOUTHER: No, Your Honor, we look forward to the  
19 parties coming to a resolution of this as our path forward.

20 THE COURT: All right, it sounds like the parties have  
21 been working hard to reach a resolution. Which obviously I'm  
22 happy to hear. And I think certainly two more weeks is  
23 reasonable to try to resolve all the outstanding issues.

24 So I think what I'll do is, set it down for another  
25 telephone conference two weeks from today. I will say, first

1 of all, if obviously there's been a resolution we don't need to  
2 have a conference. Or if it's very close and you just need a  
3 few more days, I don't want to unnecessarily make everybody get  
4 on the phone that you're just going to ask for a little bit  
5 more time to finalize it. So you can always put in a letter if  
6 everybody is in agreement, just asking for a few more days.

7 But why don't you give a date and time for another  
8 phone conference. How about March 12th at 2 p.m.?

9 MS. O'CONNOR: That's fine for the Government, Your  
10 Honor. Thank you.

11 MR. KOSTOLAMPROS: Same for Danske.

12 MS. RAMACHANDRAN: That's fine for Owen Nolan --

13 MR. MAIN: Fine for CSL Properties, Your Honor.

14 THE COURT: All right. Anything else anybody needs to  
15 raise today? I appreciate everybody getting on the call. All  
16 right, thank you counsel, have a good day.

17 \* \* \* \* \*

18 **C E R T I F I C A T I O N**

19 I, **PATRICIA POOLE**, court approved transcriber,  
20 certify that the foregoing is a correct transcript from the  
21 official electronic sound recording of the proceedings in the  
22 above-entitled matter.

23

24 /S/ PATRICIA POOLE

25 TRACY GRIBBEN TRANSCRIPTION, LLC

DATE: April 10, 2021